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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,673	03/24/2006	Masamichi Furukawa	0670-7072	5077
31780	7590	12/16/2008		
ERIC ROBINSON PMB 955 21010 SOUTHBANK ST. POTOMAC FALLS, VA 20165			EXAMINER WILLIAMS, JEFFERY L	
			ART UNIT 2437	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,673	Applicant(s) FURUKAWA ET AL.	
	Examiner JEFFERY WILLIAMS	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>32406 42506 52207</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the communication filed on 9/22/08.

Claims 1 – 4 and 17 – 25 are pending.

Election/Restrictions

Applicant's election of claims 1 – 4 and 17 – 25 in the reply filed on 9/22/08 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

Claims 1 – 4 and 17 – 25 are objected to because of the following informalities:
Claims 1 - 4 inconsistently recite claimed data as “content”, “content data”, and “broadcast content data” (e.g. see claims 1 and 3). For the purpose of examination, the examiner presumes the applicant to consistently recite “broadcast content data”.
Appropriate correction is required. Claims 17 – 25 inconsistently recite claimed data as both “input content data” and “content data” (e.g. see claim 17). For the purpose of examination, the examiner presumes the applicant to consistently recite “input content data”. Appropriate correction is required.

Claims 18, 21, and 22 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, an claimed apparatus is limited by structure (i.e. defined by what it is) not how it is used. These claims essentially comprise descriptive recitations related to intended use and they fail to further limit the claimed apparatus.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 4 and 17 – 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and 2 recites the "the broadcast time" in lines 4. There is insufficient antecedent basis for this recitation. For the purpose of examination, the examiner presumes the applicant to recite "a broadcast time".

Claim 2 recites the "*the content data permitted to record*" and "*the normal content data*". There is insufficient antecedent basis for these recitations.

Furthermore, the recitations "*the content data permitted to record*" and "*the normal content data*" each lack a standard meaning to one of ordinary skill in the art. Regarding the recitation, "*to judge whether or not the received content data is the content data permitted to record, or the normal content data*", the examiner notes that this is grammatically nonsensical and its meaning is indeterminate. Thus, it is noted that these recitations render the scope of the claim indefinite. For the purpose of examination, the examiner presumes the applicant to recite "*to judge the broadcast content data*".

Claim 17 recites the "the input content data" in line 1 and "the time information" in line 3. There is insufficient antecedent basis for these recitations. For the purpose of examination, the examiner presumes the applicant to recite "input content data" and "time information".

Claim 18 recites the "the identified time information" in line 2. There is insufficient antecedent basis for these recitations. For the purpose of examination, the examiner presumes the applicant to recite "identified time information".

Claims 19, 20, and 22 recite "*the information representing the insistence of the copyright*". There is insufficient antecedent basis for this recitation. For the purpose of examination, the examiner presumes the applicant to recite "*information representing the insistence of the copyright*".

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Furthermore, claims 19, 20, and 22 each recite “or other equivalent information”. This recitation renders the scope of these claims indeterminate as “or other equivalent information” lacks any standard meaning to one of ordinary skill in the art. Regarding claims 19, 20, and 22, the phrase “or other equivalent information” renders the claim(s) indefinite because the claim(s) appear to include elements not actually disclosed (those encompassed by “or other equivalent information”), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 23, the recitation “wherein said clocking means is able to set the time clock *only when said data recording device is manufactured*” is unclear. All existing devices have been manufactured, thus the condition “*only when*” a device is manufactured appears to be nonsensical. The examiner points out that the applicant appears for the claim to recite setting a time clock at the time of manufacture.

Regarding claim 25, the claim appears generally narrative and indefinite, failing to conform with current U.S. practice. It appears to be a literal translation into English from a foreign document and the recitation “the settable number of time clock” lacks any clear meaning.

All depending claims have been rejected by virtue of dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 4 and 17 – 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Morito et al. (Morito), U.S. Patent 6,310,956.

Regarding claim 1, Morito discloses:

A digital watermark information adding device having digital watermark information adding means for adding digital watermark information to broadcast content data, wherein said digital watermark information adding means adds time information representing the broadcasting time of said content data as digital watermark information to said content data (Morito, Abstract; 5:5-8; fig. 5:23) to judge whether or not a terminal receiving said content data can record the content data.

Regarding claim 2, Morito discloses:

A digital watermark information adding device having digital watermark information adding means for adding digital watermark information to broadcast content data (Morito, Abstract; 5:5-8; fig. 5:23), wherein if said content data is redistributed via a network, said digital watermark information adding means adds time information

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representing the broadcasting time of said content data as digital watermark information to said content data, to allow a terminal receiving the content data to judge whether or not the received content data is the content data permitted to record, or the normal content data.

Regarding claims 3 and 4, Morito discloses:

wherein said digital watermark information adding means adds digital watermark information (Morito, Abstract:3-12; fig. 5) representing that the content insists the copyright to said content data, and wherein said digital watermark information adding means adds digital watermark information (Morito, Abstract:3-12; fig. 5) representing whether or not the broadcast content data is permitted to be distributed via a communication line.

Regarding claim 17, Morito discloses:

time information identification means for identifying the time information added to said content data (Morito, fig. 6:33);

clocking means for clocking the present time (Morito, fig. 6:34);

and recording means for recording said content data in a recording medium (Morito, fig. 6:36);

wherein if it is discriminated that the time information is added to said content data, and the time information identified by said time information identification means

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and the present time clocked by said clocking means are matched within a predetermined range, the input content data is recorded in said recording medium.

Regarding claims 18 - 25, as best can be understood, Morito discloses:

wherein if it is discriminated that the time information is added to said content data, and the identified time information and the present time clocked by said clocking means are unmatched within a predetermined range, recording the input content data in said recording medium is prohibited (Morito, Abstract); copyright insistence information discrimination means for discriminating whether or not the information representing the insistence of the copyright or other equivalent information is added to said content data, wherein if it is discriminated that the time information is not added to said content data, and it is discriminated that the information representing the insistence of the copyright or other equivalent information is added, recording the input content data in said recording medium is prohibited (Morito, Abstract; fig. 6:33); copyright insistence information discrimination means for discriminating whether or not the information representing the insistence of the copyright or other equivalent information is added to said content data, wherein if it is discriminated that the time information is not added to said content data, and it is discriminated that the information representing the insistence of the copyright or other equivalent information is not added, the input content data is recorded in said recording medium (Morito, Abstract; fig. 6:33); wherein said time information is added as digital watermark information; wherein the information representing the insistence of the copyright or other equivalent information is added as digital watermark information;

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wherein said clocking means is able to set the time clock only when said data recording device is manufactured (Morito, 6:58-60); wherein said clocking means clocks the year, month and day, and said time information includes only the year, month and day (Morito, 5:56-63; 7:1-12); wherein said clocking means imposes a restriction on the settable number of time clock (7:21-36).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

See Notice of References Cited.

A shortened statutory period for reply is set to expire **3** months (not less than 90 days) from the mailing date of this communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Williams
AU 2437

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437